

**NASD**  
**LETTER OF ACCEPTANCE, WAIVER AND CONSENT**  
**NO. E3A2004003401**

TO: Department of Enforcement  
NASD

RE: American Funds & Trusts, Inc., Member  
CRD No. 1066

Pursuant to Rule 9216 of NASD Code of Procedure, American Funds & Trusts, Inc., [Respondent or the firm] submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the **alleged** rule violations described in Part II below. This AWC is submitted on the condition that, if **accepted**, NASD will not bring any future actions against the firm alleging violations based on **the same** factual findings.

Respondent understands that:

1. Submission of this AWC is **voluntary** and will not resolve this matter unless and until it has been reviewed and **accepted** by NASD's Department of Enforcement and National Adjudicatory Council ("NAC") Review Subcommittee or Office of Disciplinary Affairs ("ODA"), pursuant to NASD Rule 9216;
2. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against **the firm**; and
3. If accepted:
  - a. this AWC will become **part** of the firm's permanent disciplinary record and may be considered in **any** future actions brought by NASD or any other regulator against it;
  - b. this AWC will be made **available** through NASD's public disclosure program in response to **public** inquiries about the firm's disciplinary record;
  - c. NASD may make a **public** announcement concerning this agreement and the subject matter **thereof** in accordance with NASD Rule 8310 and IM-8310-2; and
  - d. The firm may not take **any** action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying,

directly or indirectly, any allegation in this AWC or create the impression that the AWC is without **factual** basis. Nothing in this provision affects the firm's testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which NASD is not a party.

Respondent also understands that its experience in the securities industry and disciplinary history may be factors that will be considered in deciding whether to accept this AWC. That experience and history are as follows:

The firm became a member of NASD in 1958. Its membership is current. It has not previously been the subject of disciplinary action.

**I.**

**WAIVER OF PROCEDURAL RIGHTS**

Respondent specifically and voluntarily waives the following rights granted under NASD's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against the firm;
- B. To be notified of the Formal Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the NAC and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, the firm specifically and voluntarily **waives** any right to claim bias or prejudgment of the General Counsel, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

The firm further specifically and voluntarily **waives** any right to claim that a person violated the ex parte prohibitions of Rule 9143 or the separation of functions prohibitions of Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

## II.

### ACCEPTANCE AND CONSENT

- A. Respondent hereby accepts and consents, without admitting or denying the allegations or findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of NASD, or to which NASD is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by NASD:
1. During the period from October 1, 2003 through September 30, 2004 (the "relevant period"), the firm's Anti-Money Laundering compliance program required that the firm establish and maintain records of the information obtained and reviewed in connection with the implementation of its customer identification program. The firm opened 50 new customer accounts during the relevant period, but did not establish and maintain the records of information obtained and reviewed to verify the identity of the customer with respect to 49 of those accounts. This constituted a violations of the recordkeeping requirements of the Customer Identification Provisions, 31 U.S.C. §5318(l) and 31 CFR 1.22(b)(3) and a failure to implement a portion of its Anti-Money Laundering compliance program, in violation of NASD Conduct Rules 3011(b) and 2110 by Respondent.
  2. During the relevant period, the firm's Anti-Money Laundering compliance program contained procedures for conducting an independent test of the firm's compliance with the program, as required by NASD Conduct Rule 3011(c). These procedures were not reasonably designed to monitor the firm's compliance with the requirements of the Bank Secrecy Act ("the Act"), the rules promulgated thereunder ("the rules") and Conduct Rule 3011, in that they required only a review of the firm's receipts of cash and its reporting of suspicious activity. Because the procedures did not require monitoring compliance with other aspects of the Act, the rules and Rule 3011, they were inadequate. Further, the independent test conducted in February 2004 was itself inadequate to determine the firm's compliance with the Act, the rules and Rule 3011 because it involved only the review specified in the firm's procedures. This constituted a violation of Conduct Rules 3011 and 2110 by Respondent.
- B. The firm also consents to the imposition, at a maximum, of the following sanctions:

A censure and a fine in the amount of \$10,000.00.

The sanctions imposed herein shall be effective on a date set by NASD staff.

### **III.**

#### **OTHER MATTERS**

- A. Respondent understands that it may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute **factual** or legal findings by NASD, nor does it reflect the views of NASD or its **staff**.
- B. Respondent agrees to pay any monetary sanctions imposed on it upon notice that this AWC has been **accepted** and that such payments are due and payable and has attached an **Election of Payment** form showing the method by which it proposes to pay any fine imposed.
- C. Respondent specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time **hereafter**, any monetary sanction imposed in this matter.

Respondent certifies that it has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it, and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein, has been made to induce the firm to submit it.

Date 8/5/05

American Funds & Trusts, Inc.

By: \_\_\_\_\_  
[Name and title]

Reviewed by:

### Counsel for Respondent

Accepted by NASD:

8/29/05  
Date

  
Joseph M. McCarthy  
Associated Vice President and  
District Director  
Signed on behalf of the Director of ODA,  
by delegated authority

RECEIVED

AUG 05 2005

NASD DIST # 3